

REMARKS

Prior Art Rejections

The examiner has rejected claims 1-11 and 14-18 under 35 U.S.C. 103(a) as being unpatentable over Nijhawan (US 6,374,341) in view of Vishin (US 5,860,146). The Examiner has rejected claims 19-22 under 35 U.S.C. 103(a) as being unpatentable over Nijhawan and Vishin in view of Kurmann et. al (*Speculative Defragmentation - A Technique to Improve the Communication Software Efficiency for Gigabit Ethernet*).

The applicant has amended claims 1 and 14 to include the limitations of claims 21 and 22, which have been cancelled. The applicant submits that Nijhawan, Vishin, Kurmann, neither disclose nor suggest that "the network layer receives and transmits the data as data packets that are odd-sized, arrive asynchronously, and contain metadata embedded with real data," as recited in claims 1 and 14.

The examiner asserts on page 6 of the office action that the combination of Nijhawan, Vishin, and Kurmann teach the limitations of claims 21 and 22 (now cancelled). More specifically, the Examiner asserts that Kurmann discloses odd-sized data packets in section 3.2.1, on page 4: "the TCP protocol stack automatically generates zero-copy packets of 4KB whenever possible and the driver decomposes them into three IP-fragments."

The examiner incorrectly considers Kurmann's fragments which are odd in number to be the same as packets that are odd-sized. The size of a packet refers to the number of bits contained in the packet, not the number of packets that are present. Thus, an odd-sized packet contains an odd number of bits. Although Kurmann discloses generating an odd number of fragments (i.e., three fragments) from zero-copy packets, nowhere does Kurmann disclose that these fragments or the zero copy packets are odd-sized. Rather, in the passage cited above, Kurmann discloses that zero-copy packets are 4KB whenever possible. Furthermore, in FIG. 3 on page 5, the fragments are shown to contain an even number of bits. For example, the first

fragment contains 1460 bits, the second fragment contains 1480 bits, and the third fragment contains 1156 bits. Nowhere, does Kurmann disclose or suggest that the zero-copy packets or the fragments are odd-sized (i.e., contain an odd number of bits).

Furthermore, Nijhawan, Vishin, and Kurmann fail to disclose or suggest data packets that arrive asynchronously. Although Kurmann discloses receiving packets over an Ethernet computer network, Kurmann is silent as to whether the packets arrive asynchronously. For example, the packets in Kurmann could arrive synchronously.

For the foregoing reasons, the applicant submits that independent claims 1 and 14, along with their dependent claims, are patentable.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Enclosed is a \$120.00 check for a one-month Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050, referencing attorney docket no. 07072-137001.

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Respectfully submitted,

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